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09/740,375	12/19/2000	Samuel N. Zellner	00398; AT1-112	4937
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/740,375

**Applicant(s)**

ZELLNER ET AL.

**Examiner**

Arthur Duran

**Art Unit**

3622

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SD-05)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

Claims 21-30 have been examined.

### ***Response to Amendment***

The Amendment filed 4/5/10 on is sufficient to overcome the prior rejection.

However, a new 103 rejection has been made.

Examiner notes that the BPAI fully Affirmed the rejection of this case on 2/5/10.

Hence, the prior 103 rejections of the claims dated 4/19/2007 is affirmed as properly rejected. However, Applicant filed an RCE with claim amendments on 4/5/10.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrey (2002/0102993) in view of Goldhaber (5,794,210) in view of Gazit (20020070879).

Claim 21, 26: Hendrey discloses:

Sending first information about a location of the user to a content provider that provides web content to the wireless communication device (Fig. 1; Fig. 2; Paragraphs [5, 53])

Sending an indication to the content provider when the location is continuously changing (Fig. 1; [38, 41]);

Searching a database of location specific advertisements and selecting a location specific advertisement relevant to the user (Fig. 1; [32, 33, 34]),

tracking a first one of a plurality of location-specific advertisements that is associated with the location of the user and tracking that the user is at a stable location that is not continuously changing ([45, 47, 48]).

Hendrey does not explicitly disclose that the advertisements are sent when the user's location is stable. However, Hendrey discloses tracking the user being both moving and stable (see above citations), that particular indications concerning advertisements can be made when the user's location is stable at certain areas ([47]), that the various features and embodiments of the Hendrey disclosure can be utilized for targeting advertisements ([53]), that there are many variations and factors for targeting a user ([32, 33, 34, 58]) and that there are many possible variations of the Hendrey disclosure ([66]). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the information in Hendrey's Fig. 1, including whether the user is moving or the location is stable, can be utilized for targeting the user. One would have been motivated to do this in order to better target the user with items of interest. Also, one would have been motivated to do this in order to better target users who are passing near stores or in buildings nearby stores or are proximate to stores and also to better utilize the time and location information for targeting users and for determining whether to send advertising and repeat advertising to users or not.

In regards to claim 26, Hendrey further discloses utilizing a variety of position determining methods or technologies and also that user location information can be sent periodically ([44, 47]). Notice that the location is monitored over a period of time. Hence, the location is not continually monitored but monitored at different periods in time and, hence, periodically. Also, the utilization of different location determining

methods or technologies allows to Hendrey to continually monitor location information, monitor location with very short (seconds or microseconds) periodical feedback of user location, or with longer periodical feedback of user location. Also, in further regards to claim 26, Hendrey discloses that it is location information of the wireless device that is sent (Fig. 1).

In further reference to independent claim 1, as noted on 6/19/2007, the prior art Hendrey renders obvious:

- sending first information about a location of the user to a content provider that provides web content to the wireless communication device (Figure 1);

- sending an indication to the content provider when the location is continuously changing (Figure 1; [47, 48]);

- searching a first database containing a plurality of location-specific advertisements (Figure 1);

- selecting a first one of the plurality of location-specific advertisements that is associated with the location of the user and is desired to be sent to the user at a stable location that is not continuously changing (Figure 1; [47, 48]); and

- sending the first one of the plurality of location-specific advertisements to the wireless communication device over a communication network when the location is stable and not continuously changing (Figure 1; [47,48]).

Additionally, on 4/5/10, Applicant added to the independent claims, "wherein the user enters a code on the wireless communication device to activate and deactivate an

identity-blocking option, the identity-blocking option to allow or prevent dissemination of an identity of the user to the content provider”.

Hendrey does not explicitly disclose wherein the user enters a code on the wireless communication device to activate and deactivate an identity-blocking option, the identity-blocking option to allow or prevent dissemination of an identity of the user to the content provider.

However, as noted above and affirmed by the BPAI on 2/5/10, Hendrey discloses wireless communications and wireless communications device. Hendrey does not explicitly disclose the user enters a code on the device to activate and deactivate an identity-blocking option, the identity-blocking option to allow or prevent dissemination of an identity of the user to the content provider. However, Goldhaber discloses activating and deactivating an identity-blocking option, the identity-blocking option to allow or prevent dissemination of an identity of the user to the content provider (6:61-7:7; 1:45-13:10; 6:55-61). Goldhaber further discloses the user logging in before being able to perform the user functions of providing or not providing identity information (Fig. 13, item 300; Fig. 13; Fig. 12, item 206; 7:27-31). The logging in with a passcode or password functions as the user enters a code on the device. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Goldhaber’s user entering a code to activate and deactivate identity sharing to Hendrey’s user profile ([32, 37]; above citations). One would have been motivated to do this in order to better allow user privacy and confidentiality (Goldhaber, 12:45-65). Alternatively, it would have been obvious to one having ordinary skill in the art at the

time of the invention to combine the features of the two inventions since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Additionally, on 3/17/11, Applicant amended the independent claims:

"sending a pre-designated code from the service provider to the content server provider when the location is continuously changing;  
searching a first database containing a plurality of location-specific advertisements, the database located on the content server, wherein receipt of the pre-designated code prevents the initiation of the searching."

Hendrey does not explicitly disclose sending a code when the location is changing so that the code prevents searching. However, as shown above, Hendrey discloses searching for ads to send to a moving user and determining if the user is moving or stationary to determine whether the ad is appropriate to send or not (Figs. 1, 2; and citations and explanation above). And, Hendrey discloses that a variety of factors can be used for determining targeting ([53, 32, 33, 34, 58]). And, Goldhaber discloses sending a code from the user to turn on or off ad searching (citations and explanation from Goldhaber above). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Hendrey can use Hendrey's movement and stationary information to send or not send ads. One would have been motivated to do this in order to better send ads at appropriate times. As a

further example of how this is obvious, Gazit discloses that ads can not be displayed based on movement parameters such as a continuously changing location as demonstrated by speed levels ([9, 52, 78, 79, 81]). Hence, it is obvious that Hendrey can prevent the searching for ads to display if the user device is moving too fast. One would be motivated to do this to better send ads at an appropriate time. Alternatively, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the features of the two inventions since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Also, Hendrey discloses that it is location information of the wireless device that is sent (Fig. 1) and sending location information from the wireless device from a service provider on a network to a content server (Fig. 1; [18-30]).

Claim 22, 23, 27-30: Hendrey further discloses targeting users based parameters, filters, preferences, and profiles ([32, 35, 37]) and hiding certain information about users ([3]).

Hendrey does not explicitly disclose not transmitting an indication of the identity of the user.

Goldhaber further discloses targeting users with content based on geographic areas (col 2, lines 27-35; col 15, lines 15-21) and that user geographic area information is known (col 13, lines 5-11).



Goldhaber discloses profiling a user, targeting content or advertising to a user based on known user information, maintaining user privacy, that user's can release user identifying information if the user so chooses (Abstract, second half; col 6, lines 22-45; col 7, lines 61-67; col 14, lines 10-17).

Goldhaber further discloses obtaining second information about the identity of the user for a fee (col 6, line 64-col 7, line 5; col 17, lines 20-26; col 14, lines 7-10).

Goldhaber further discloses the user indicating preferences for content to be received (Fig. 7; Fig. 10).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Goldhaber's user being able to control the user's profile to Hendrey's targeting a user based on a user profile. One would have been motivated to do this in order to better send content of interest to the user.

Claims 24, 25: In regards to claims 24, 25, Hendrey discloses that the user can be tracked as to being home or at work and that this indicates information relative to advertisements ([47]) and that the user can be targeted based on profile or preference or other information (see citations in preceding claims).

Hendrey does not explicitly disclose that the user can indicated geographic areas to receive or not receive content.

However, Goldhaber discloses that the user can indicate a criteria that is to be utilized for delivering content and/or a criteria that is to be used to prevent certain content from being delivered (Fig. 10, item 124; col 6, lines 45-61). Notice that the

profile includes items to send and/or not to send and that the user can edit the profile at any time and in any manner.

Goldhaber further discloses that different servers can serve different geographic areas as well as a variety of other interest areas (col 15, lines 17-31) and that the user can indicate as interested or not interested the different interest areas of the different servers (Fig. 10).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Goldhaber's indicating whether to receive content or not based on different criteria and geographic area as a criteria to Hendrey's particular location relative advertisements and targeting a user based on a variety of criteria. One would have been motivated to do this in order to better present content of interest to the user.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Note the addition of Gazit to the 103 rejection above. Also, Examiner notes the following.

Additionally, on 3/17/11, Applicant amended the independent claims:

"sending a pre-designated code from the service provider to the content server provider when the location is continuously changing;

searching a first database containing a plurality of location-specific advertisements, the database located on the content server, wherein receipt of the pre-designated code prevents the initiation of the searching."

Applicant remarks dated 3/17/11 address these features.

Hendrey does not explicitly disclose sending a code when the location is changing so that the code prevents searching. However, as shown above, Hendrey discloses searching for ads to send to a moving user and determining if the user is moving or stationary to determine whether the ad is appropriate to send or not (Figs. 1, 2; and citations and explanation above). And, Hendrey discloses that a variety of factors can be used for determining targeting ([53, 32, 33, 34, 58]). And, Goldhaber discloses sending a code from the user to turn on or off ad searching (citations and explanation from Goldhaber above). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Hendrey can use Hendrey's movement and stationary information to send or not send ads. One would have been motivated to do this in order to better send ads at appropriate times. As a further example of how this is obvious, Gazit discloses that ads can not be displayed based on movement parameters such as a continuously changing location as demonstrated by speed levels ([9, 52, 78, 79, 81]). Hence, it is obvious that Hendrey can prevent the searching for ads to display if the user device is moving too fast. One would be motivated to do this to better send ads at an appropriate time. Alternatively, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the features of the two inventions since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Also, Hendrey discloses that it is location information of the wireless device that is sent (Fig. 1) and sending location information from the wireless device from a service provider on a network to a content server (Fig. 1; [18-30]).

### ***Conclusion***

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) The following prior discloses features relevant to not sending ads when a user device location is continuously changing or based on speed: Cohen 6060993 at det14; Florance 20030229592 at 259; Johnson 20100131584 at 634; Hoffberg 20070063875

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571)272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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